

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON,

C17-5806RJB

Plaintiff,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

UGOCHUKWU GOODLUCK
NWAUZOR, individually and on
behalf of all those similarly situated,
and FERNANDO AGUIRRE-
URBINA, individually,

C17-5769RJB

AMENDED

COURT'S CASE INTRODUCTION
TO ALL JURORS

Plaintiffs,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant

Dated this ____ day of _____, 2021.

Robert J. Bryan
United States District Judge

COURT'S CASE INTRODUCTION TO ALL JURORS

1 Ladies and Gentlemen:

2 We are conducting civil trials remotely, on the Zoom platform, because of the pandemic.
3 This means that jurors will not be required to come to the Courthouse every day, but will
4 participate by computer from home or your private space or office. The obligations of jurors will
5 be the same as if you were in the courtroom. You must be able to give these cases your full
6 attention from 9:00 a.m. until 4:00 p.m. throughout the trial. Also, you must follow the orders
7 and instructions of the Judge and court staff.

8 The first order of business today is for me to tell you a bit about the cases we are going to
9 try and to introduce the participants in the trial.

10 We have joined two cases together for the first phase of this trial, because the two cases
11 share common issues. After those issues are resolved, the same jury may be called upon to hear
12 a second phase of the case.

13 The Plaintiff in the first case is the State of Washington. The State here is represented by
14 Assistant Attorneys General _____ and
15 _____.

16 The Plaintiffs in the second case are Ugochukwu Goodluck Nwauzor and Fernando
17 Aguirre-Urbina. Their lawyers are _____ and
18 _____. These Plaintiffs are here on their own behalf, and Mr.
19 Nwauzor as the representative of a class of others. Their claims are described as a class action.
20 A class action is a lawsuit that has been brought by one or more plaintiffs on behalf of a larger
21 group of people who have similar legal claims. All of these people together are called a “class.”
22 In a class action, the claims of many individuals can be resolved at the same time instead of
23 requiring each member to sue separately over the same issue. Because of the large number of
24

possible claims that are in the case, not everyone in the class will testify. The evidence at trial applies to all class members. All members of the class will be bound by the result of this trial.

In this second case, the Plaintiffs' class consists of the following:

All civil immigration detainees who participated in the Voluntary Work Program at the Northwest Detention Center at any time between September 26, 2014, and the date of final judgment in this matter.

The Defendant in both cases is The GEO Group, Inc., a corporation also known as "GEO." GEO's lawyers are _____ and _____.

The parties have agreed on certain facts that will give you the background of the issues. The following facts are admitted by the parties:

1. GEO owns and operates the Northwest Immigration and Customs Enforcement Processing Center, which was known from 2005 to 2019 as the Northwest Detention Center (the Center). It is located at 1623 East J Street, Tacoma, Washington.

2. Since October of 2005, GEO has contracted with U.S. Customs and Immigration Enforcement (ICE) within the U.S. Department of Homeland Security to provide civil immigration detention management services at the Center for adults held in administrative custody as they await immigration status review by ICE and the federal judiciary.

3. GEO has expanded the capacity of the Center. The Center initially had the capacity to house between 500 to 800 individuals. In July 2006, GEO expanded the Center to house up to 1,000 individuals. In October 2009, GEO expanded the Center a second time so that it now has the capacity to house up to 1,575 individuals.

4. Pursuant to the Center contract between GEO and ICE, GEO provides detention services to ICE including, but not limited to: the building, management and administration,

1 security, clean and vermin free facilities, food service with three nutritious meals per day, clean
2 uniforms and bedding, and barbershop/grooming services.

3 5. Pursuant to the Center contract between GEO and ICE, GEO is required to
4 “perform in accordance with” specific “statutory, regulatory, policy, and operational”
5 constraints, including the ICE/Department of Homeland Security Performance Based National
6 Detention Standards, as well as “all applicable federal, state, and local laws.”

7 6. The Performance Based National Detention Standards, and its predecessor the
8 National Detention Standards, is a set of standards developed by ICE to ensure that all entities it
9 contracts with provide safe and secure facilities.

10 7. Performance Based National Detention Standard 5.8 requires that GEO offer
11 detained persons an opportunity to work in a Voluntary Work Program (VWP).

12 8. Since October of 2005, GEO has offered detainees positions in its Voluntary
13 Work Program.

14 9. On a given day, there could be as many as 470 positions for detainees in the
15 Voluntary Work Program at the Center.

16 10. While detained, detainees do not have the opportunity to leave the Center or work
17 outside of the Center, unless explicitly authorized by ICE.

18 11. GEO does not review whether detainee-workers have work authorization when
19 reviewing their requests/applications for positions in the Voluntary Work Program.

20 12. GEO maintains job descriptions for Voluntary Work Program positions.

21 13. Positions that are available to detainees in the Voluntary Work Program are
22 varied, including in the kitchen, in the laundry room, cleaning of common areas, and cutting hair
23 in the barbershop.

1 14. GEO provides detainees in Voluntary Work Program positions with all
2 equipment, materials, supplies, uniforms, and personal protective equipment necessary to their
3 Voluntary Work Program position.

4 15. GEO has never paid detainees in Voluntary Work Program positions the state
5 minimum wage.

6 16. GEO has paid and continues to pay detainees in Voluntary Work Program positions
7 \$1 per day.

8 17. Performance Based National Detention Standard 5.8 states: “Detainees shall
9 receive monetary compensation for work completed in accordance with the facility’s standard
10 policy. The compensation is at least \$1.00 (USD) per day.”

11 18. GEO employs non-detainee employees, including two or three janitors at the
12 Center.

13 19. Washington’s hourly minimum wage from 2005 to the present year has gone from
14 \$7.35 on January 1, 2005, to \$13.50 on January 1, 2020.

15 20. Mr. Nwauzor is a citizen of Nigeria, and was granted asylum in the United States
16 in January 2017.

17 21. Mr. Nwauzor was held at the Center as a civil immigration detainee from
18 approximately June 2016 until January 2017.

19 22. Mr. Nwauzor held a Voluntary Work Program position during his detention at the
20 Center.

21 23. Mr. Nwauzor obtained lawful permanent residence status, commonly known as a
22 “green card,” in July 2018.

23 24. Mr. Aguirre-Urbina was born in Mexico.
24

1 25. Mr. Aguirre-Urbina was held at the Center as a civil immigration detainee
2 beginning in September 2012.

3 26. Mr. Aguirre-Urbina held a Voluntary Work Program position during his detention
4 at the Center.

5 All parties agree that the first issues to be tried are whether GEO is required to pay the
6 hourly minimum wage to detainees in the Voluntary Work Program at the Center under the State
7 of Washington's Minimum Wage Act; and does intergovernmental immunity render GEO
8 immune from liability under the Minimum Wage Act?

9 The Plaintiff State of Washington brings the first case as an enforcement action, to
10 require GEO to adhere to Washington State's Minimum Wage Act. In the second case, the class
11 Plaintiffs' claim is to recover money they claim is due, under the Minimum Wage Act, for work
12 performed as part of the Voluntary Work Program.

13 Defendant denies the Plaintiffs' claims and affirmatively claims that GEO is immune
14 from Plaintiffs' claims under the law.

15 Plaintiffs deny Defendant's claims.

16 The parties have the burden of proving any claim or affirmative defense by a
17 preponderance of the evidence, which means you must be persuaded by the evidence that the
18 claim or affirmative defense is more probably true than not true.

19 GEO has been the subject of news reports on other subjects lately that are not directly
20 relevant to these cases. These cases are not about whether the government's contracting with
21 private entities to operate detention facilities is a good or bad policy, nor is it about specific
22 events at the Center, unrelated to the issue of minimum wage and the Voluntary Work Program.
23 These cases are also not about United States' immigration policy or border issues.

1 An important part of these cases is jury selection. In order that the cases be tried before
2 an impartial jury, the lawyers and I will ask you questions, not to embarrass you or to pry into
3 your private affairs, but to determine if you are unbiased and without preconceived ideas which
4 might affect the cases. You should not withhold information in order to be seated on this
5 particular jury. You should be straightforward in your answers rather than answering in the way
6 you feel the lawyers or I expect you to answer. Your answers will be under oath. It is presumed
7 that when a jury has been selected and accepted by both sides, each of you will keep an open
8 mind until the cases are finally submitted, will accept the instructions of the Court, and will base
9 any decision upon the law and the facts uninfluenced by any other considerations. The purpose
10 of the questions is to determine if you have that frame of mind.

11 The lawyers have the right and duty to challenge any jurors for cause. They may also
12 challenge a certain number of jurors without giving any reason as a guarantee to both parties that
13 they may remove some jurors if they wish. You should not take offense if you are challenged,
14 because the challenges are not exercised as a personal reflection on you.

15 A number of witnesses may testify in these cases. I have asked counsel to list the
16 witnesses that are local, and I will read the list to you. Make a mental or written note of anyone
17 on the list of witnesses that you know, or know of, and we will ask you about that in the
18 questioning. Possible witnesses are: _____

19 We are going to divide you up into groups of _____ for inquiry into
20 whether each of you can serve as fair and impartial jurors in these cases.

21 I ask each of you for your patience. We will work as fast as we can.
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